

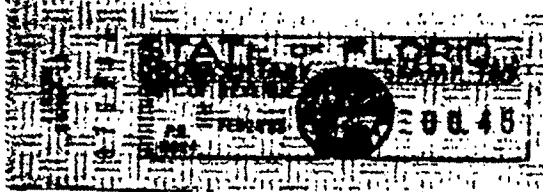
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Sec. 8 A Stat. 73 Rep. 30 E

OFF REC 573 PAR 152

The undersigned, owner (s) of the premises described below, in consideration of the payment of \$1.00 and other good and valuable consideration, the adequacy and receipt of which is hereby acknowledged, grant and give to Florida Power & Light Company, its licensees, agents, successors, and assigns, an easement forever for the construction, operation and maintenance of overhead and underground electric utility facilities (including wires, poles, guys, cables, conduits and appurtenant equipment) to be installed from time to time; with the right to reconstruct, improve, add to, enlarge, change the voltage, as well as, the size of and remove such facilities or any of them, on the property described as follows:

PARCEL "C" THE NORTHEASTERLY 10 FEET OF LOTS 16 THROUGH 25, TOGETHER WITH THE NORTHWESTERLY 10 FEET OF LOTS 26 THROUGH 37, BLOCK 2, TOGETHER WITH THE NORTHWESTERLY 10 FEET OF LOTS 1 THROUGH 8, BLOCK 8, PORPOISE POINT, AS RECORDED IN MAP BOOK 15, PAGES 1 THROUGH 9 OF THE PUBLIC RECORDS OF ST. JOHNS COUNTY, FLORIDA.



FILED AND RECORDED IN
PUBLIC RECORDS OF
ST. JOHNS COUNTY, FLA.

1983 FEB 24 PM 2:10

Paul "Bud" Munkel
CLERK OF CIRCUIT COURT

together with the right to permit any other person, firm or corporation to attach wires to any facilities hereunder and lay cable and conduit within the easement and to operate the same for communications purposes with the right of ingress and egress to said premises at all times, to clear the land and keep it cleared of all trees, undergrowth or other obstructions within the easement area; to trim and cut and keep trimmed and cut all dead, weak, leaning or dangerous trees or limbs outside of the easement area which might interfere with or fall upon the lines or systems of communications or power transmission or distribution, and further grants, to the fullest extent the undersigned has the power to grant, if at all, the rights hereinabove granted on the land heretofore described, over, along, under and across the roads, streets or highways adjoining or through said property.

IN WITNESS WHEREOF, the undersigned has signed and sealed this agreement on February 8th, 1983

Signed, sealed and delivered
in the presence of:

Charles J. Italy
Christy J. Bohard

[Signature] (SEAL)
for Porpoise Point Partnership (SEAL)
R.E. Gentry
Porpoise Point Partnership (SEAL)
____ (SEAL)

STATE OF FLORIDA AND COUNTY OF _____

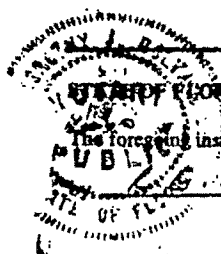
The foregoing instrument was acknowledged before me this _____ day of _____, 19____,

by _____ and _____,

respectively the _____ President and _____ Secretary of _____

_____, a _____ corporation, on behalf of the corporation.

NOTARY PUBLIC, STATE OF FLORIDA AT LARGE
MY COMMISSION EXPIRES:



STATE OF FLORIDA AND COUNTY OF St. Johns

The foregoing instrument was acknowledged before me this 8 day of February, 1983,

R.E. Gentry

Christy J. Bohard
NOTARY PUBLIC, STATE OF FLORIDA AT LARGE
MY COMMISSION EXPIRES:
9-30-85

DECLARATION OF COVENANTS,
CONDITIONS AND RESTRICTIONS OF
PORPOISE POINT

THIS DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS OF PORPOISE POINT made this 16th day of February, 1983, by KEITH H. KUHLMAN and RANDALL E. GENTRY, co-partners d/b/a PORPOISE POINT PARTNERSHIP, a Florida General Partnership hereinafter referred to as the "Developer."

- W I T N E S S E I H:

WHEREAS, Developer as the Owner of that certain real property located in St. Johns County, Florida, known as Porpoise Point and which is more particularly described in Exhibit "A" attached hereto and made a part hereof (hereinafter referred to as Porpoise Point), wishes to record this "Declaration of Covenants, Conditions and Restrictions" (hereafter the "Declaration") for the purpose of providing a common plan or scheme of development for Porpoise Point and for the purpose of aiding in the establishment and maintenance of an exclusive residential area of the highest quality for the maximum benefit and enjoyment of its residents;

NOW, THEREFORE, for and in consideration of the premises and the mutual covenants and agreements herein contained, Developer declares as follows:

ARTICLE I

DECLARATION OF COVENANTS,
CONDITIONS AND RESTRICTIONS
OF PORPOISE POINT

The Developer intends that all of the lands located in Porpoise Point, as described in Exhibit "A," be held, sold and conveyed subject to the conditions, covenants, restrictions and other provisions contained in this Declaration, which it acknowledges are for the purposes of protecting the value and desirability of, and which shall run with, Porpoise Point and be binding upon all parties having any right, title or interest therein, or any

THIS INSTRUMENT PREPARED BY RICHARD A. SCHLOSSER
TRENAM, SIMMONS, KEMKER, SCHARF, BARKIN, FRYE & O'NEILL, P.A.
P. O. BOX 1102 TAMPA, FLORIDA 33601

portion thereof, their respective heirs, successors and assigns, and which shall inure to the benefit of the Association and each Owner, as such terms are defined in this Declaration.

ARTICLE II

DEFINITIONS AND CONSTRUCTION

Section 1. "Association" means Homeowner's Utilities, Inc. a non-profit Florida corporation formed or to be formed, its successors and assigns.

Section 2. "Board" or "Board of Directors" means the Association's Board of Directors.

Section 3. "Developer" means Keith H. Kuhlman and Randall E. Gentry co-partners d/b/a Porpoise Point Partnership, a Florida General Partnership, and such of their successors and assigns as may be designated by them as a "Developer" by an instrument recorded on the Public Records of St. Johns County, Florida.

Section 4. "Porpoise Point" shall mean all of the land located in the Subdivision entitled Porpoise Point recorded in Map Book 15, pages 1-9, of the Public Records of St. Johns County, Florida. The term "Properties" when used hereafter means Porpoise Point as defined in this section.

Section 5. "Lot" shall mean each platted lot located in Porpoise Point.

Section 6. "Owner" means the record owner, whether one or more persons, of the fee simple title to any Lot, including contract sellers, but excluding any other person holding such fee simple title merely as security for the performance of an obligation.

Section 7. "Person" means any natural person or artificial legal entity, unless the context expressly requires otherwise.

Section 8. "Member" shall mean members of the Association.

ARTICLE III

MAINTENANCE AND USE RESTRICTIONS

Section 1. Only one private dwelling including its accessory structures, shall be erected, constructed, placed or maintained on any one of the Lots in Porpoise Point, except that more than one (1) Lot may be used for one (1) private dwelling.

2.

Section 2. No building shall be located on any Lot nearer than twenty-five (25) feet to the front Lot line. Each main building shall have two (2) side yards, each of which shall have a minimum width of eight (8) feet. As to corner Lots, the Owners shall determine at the time of construction of the dwelling unit which yard is to be designated as the side yard; the minimum side yard adjacent to street right-of-way shall be twenty-five (25) feet. No dwelling shall be located nearer than ten (10) feet to the rear Lot line.

Section 3. Any detached garage, other outbuilding or structure, including but not limited to a swimming pool, shall be set back from the rear Lot lines at least ten (10) feet.

Section 4. No dwelling erected on a Lot shall exceed thirty-five (35) feet above grade in height. Private garages shall not contain space for more than three (3) cars. The First (1st) living floor of the main structure of any single family dwelling in Porpoise Point shall be not less than fourteen hundred (1,400) square feet, exclusive of porches, garages and pool areas, except that the 1st living floor area may be reduced to a minimum of eight hundred (800) square feet for two-story dwellings; provided, however, the total floor area of two-story dwellings shall be not less than fourteen hundred (1,400) square feet, exclusive of porches, garages and pool areas.

Section 5. Other than a single family dwelling as described in Section 4 above, no building except a garage or accessory structures may be erected on any Lot and no structure of a temporary nature or character shall be used as a residence. If a detached garage or accessory structure is built, either simultaneously with or subsequent to the erection of the dwelling house, the same shall be of the same kind of materials as the construction of the dwelling and shall be substantial and shall conform architecturally with the dwelling house.

Section 6. No commercial trade or activity shall be carried on upon any Lot, nor shall anything be done thereon which may be or become an annoyance or nuisance to the neighborhood.

Section 7. No building or structure shall be moved onto any Lot or parcel in the area covered by this Declaration, it being the intent of this Declaration that any and all buildings or structures in Porpoise Point shall be constructed thereon.

Section 8. No animals, livestock or poultry of any kind shall be raised, bred or kept on any Lot, except that dogs, cats and other household pets may be kept provided that they are not kept, bred or maintained for any commercial purpose. Pets shall be kept in fenced areas or on leashes when out of doors.

Section 9. No sign of any kind shall be displayed to the public view on any Lot except that there may be one (1) sign of not more than five (5) square feet, advertising a Lot for sale or rent, or a sign used by a builder to advertise the Lot during the construction and sales period. The sign shall be removed as soon as the Lot is sold.

Section 10. All of the rights of the Developer, in connection with the enforcement of any portion of this Declaration shall extend to its successors and assigns.

Section 11. Street mailboxes shall be of a type consistent with the character of Porpoise Point and shall be placed and maintained to complement the houses in the neighborhood. At such time as door postal service is available, Owners shall be required to have mailboxes attached to the main dwelling structure, and street mailboxes shall be removed within ten (10) days of commencement of such door postal service.

Section 12. Stationary outside clotheslines and clothes hanging devices such as lines, poles or frames are not permitted in Porpoise Point.

Section 13. Fences, boundary walls and hedges shall not exceed five (5) feet in height if located from the front property line to the back building line of the main structure, and shall not exceed six (6) feet in height if located from the back building line to the rear property line.

Section 14. No commercial vehicles of any type shall be permitted to remain overnight on the property of a private dwelling within Porpoise Point unless garaged, other than as may be used by the Developer in conjunction with development and building within Porpoise Point.

Section 15. No unlicensed or uninsured motor vehicles of any kind shall be permitted to remain overnight on the property of a private dwelling, unless garaged. No house trailer shall be permitted to stay on any Lot or public right-of-way.

Section 16. No lumber, brick, stone, cinder block, concrete or other building materials, scaffolding, mechanical devices or any other thing used

for building purposes shall be stored on any Lot except for the purpose of construction on such Lot and shall not be stored on such Lot for longer than the length of time reasonably necessary for the construction to completion of the improvement in which same is to be used.

Section 17. No window air conditioning units shall be installed unless screened from view of neighboring Lots and streets.

Section 18. All garages shall be equipped with automatic devices for the opening and closing of garage doors.

Section 19. No exterior television, radio, microwave, or other antenna shall be installed unless fully enclosed or shielded from public view and the view of all neighboring Lots, streets and common areas of Porpoise Point.

Section 20. No above ground fuel tanks or storage tanks, nor above ground swimming pools of any kind, shall be installed, placed or maintained on any Lot.

Section 21. All residential driveway culverts shall be constructed of twelve inch by eighteen inch (12" x 18") reinforced concrete with reinforced concrete headwalls.

Section 22. Water obtained from Homeowner's Utilities, Inc. shall not be used for commercial purposes, nor for heating or cooling, except in closed systems. Such water shall not be sold to anyone, but is for the private use of owners of Lots in Porpoise Point.

ARTICLE IV

PROPERTY OWNERS ASSOCIATION, MEMBERSHIP AND VOTING RIGHTS

Section 1. For the purpose of enhancing and protecting the value, attractiveness and desirability of the Lots in Porpoise Point to enable and aid the goal of secure and safe living, and to provide potable water and storm drainage management to Porpoise Point, there exists a Florida not for profit corporation called "HOMEOWNER'S UTILITIES, INC."

Section 2. Membership. Every Owner of a Lot that is subject to assessment is a member of the Association. If title to a Lot is held by more than one person, each such person is a Member. An Owner of more than one Lot is entitled to one membership for each Lot owned. Each

membership is appurtenant to the Lot upon which it is based and is transferred automatically by conveyance of title to that Lot. No person other than an Owner may be a Member of the Association, and a membership in the Association may not be transferred except by the transfer of title to a Lot; provided, however, the foregoing shall not be construed to prohibit the assignment of membership and voting rights by an Owner who is a contract seller to his vendee in possession.

Section 3. Voting. Each Owner of a Lot is entitled to one vote for each Lot owned. If more than one person owns an interest in any Lot, all such persons are Members; but there may be only one vote cast for each such Lot. Such vote may be exercised as the Owners determine among themselves; but no split vote is permitted.

Section 4. Amplification. The provisions of this Declaration are amplified by the Association's Articles of Incorporation and By-Laws; but no such amplification shall alter or amend substantially any of the rights or obligations of the Owner set forth in this Declaration. Developer intends that the provisions of this Declaration on the one hand, and the Articles of Incorporation and By-Laws on the other, be interpreted, construed, and applied to avoid inconsistencies or conflicting results. If such conflict necessarily results, however, Developer intends that the provisions of this Declaration control anything in the Articles of Incorporation or By-Laws to the contrary.

ARTICLE V

RIGHTS AND OBLIGATIONS OF THE ASSOCIATION

Section 1. Subject to the rights of the Owners set forth in this Declaration, the Association has the following rights and responsibilities:

- (a) To contract with various entities or persons to provide potable water and storm drainage facilities to Porpoise Point and/or any other utility facilities that the Association might determine are reasonably necessary or appropriate for Porpoise Point;
- (b) To assess and collect funds from its Members for the necessary and reasonable costs of providing the services and facilities specified in Section 1(a) above.

(c) To carry out the duties of the Association as specified herein and to enforce the terms and conditions as specified in this Declaration.

In fulfillment of its duties, the Association may obtain and pay for the services of any person to manage its affairs to the extent it deems advisable, as well as such other personnel as the Association determines are proper or desirable for the proper operation of Porpoise Point, whether such personnel are furnished or employed directly by the Association or by any person with whom it contracts. Without limitation, the Association may obtain and pay for legal and accounting services necessary or desirable in connection with the enforcement of this Declaration or its Articles, By-Laws, and Rules and Regulations.

Section 2. The Association may acquire, hold and dispose of real property and tangible and intangible personal property subject to the restrictions as from time to time may be contained in the Association's By-Laws.

Section 3. The Association may exercise any other right, power or privilege given to it expressly by this Declaration, its Articles or By-Laws and every other right, power or privilege reasonably to be implied from the existence of any right, power or privilege so granted or reasonably necessary to effectuate the exercise of any right, power or privilege so granted.

ARTICLE VI

COVENANT FOR ASSESSMENTS

Section 1. Assessments Established. For each Lot owned within Porpoise Point, the parties hereto covenant, and each Owner of any Lot by acceptance of a deed thereto whether or not so expressed in such deed is deemed to covenant and agree to pay to the Association an Annual General Assessment as defined in Section 2 of this Article, Special Assessments for Capital Improvements as defined in Section 3 of this Article and Specific Assessments as defined in Section 4 of this Article. All of the foregoing, together with interest and all costs and expenses of collection, including reasonable attorneys' fees, are a continuing charge on the land secured by a continuing lien upon the Lot against which each assessment is made.

Each such assessment, together with interest and all costs and expenses of collection including reasonable attorneys' fees, also is the personal obligation of the person who was the Owner of such Lot when such assessment fell due. The obligation for delinquent assessments shall not pass to any Owner's successors in title unless assumed expressly in writing; however, the above referred to lien shall continue to be enforceable against the Lot. The Association shall not be liable for any assessments on Lots owned by it.

Section 2. Annual General Assessment. The Annual General Assessment levied by the Association shall be used to provide potable water and drainage facilities to the Owners within Porpoise Point and for the performance of the Association's other rights and responsibilities under this Declaration. Until January 1, 1984 the Annual General Assessment will not exceed \$25 per year for unimproved Lots, or \$75 per year for Lots with improvements. Any Lot for which a certificate of occupancy issued by the St. Johns County Building Department as of the annual assessment date shall be considered an improved Lot for purposes of this Assessment. The maximum annual assessment may be increased only upon the approval by two-thirds (2/3) of the Members who are present in person or by proxy and voting at a meeting of the Association duly convened for such purpose.

Section 3. Special Assessment for Capital Improvements. In addition to the Annual General Assessment, the Association may levy, in any assessment year, a special assessment applicable to that year only, for the purpose of defraying, in whole or in part, the cost of any construction, reconstruction, renewal, repair, replacement, or purchase of any property by the Association for the purposes described in Article V Section 1, including related fixtures and personal property. Any such assessment must be approved by two-thirds (2/3) of the Members who are present in person or by proxy and voting at a meeting duly convened for such purpose.

Section 4. Specific Assessments. Any and all accrued, liquidated indebtedness of any Owner to the Association arising under any provision of this Declaration, including any indemnity contained herein, or by contract express or implied, or because of any act or omission of any Owner or of any Owner's family or household members, also may be assessed by

the Association against such Owner's Lot after such Owner fails to pay the same when due and such default continues for thirty (30) days after written notice.

Section 5. Uniformity of Assessments. The Annual General Assessment and Special Assessments for Capital Improvements shall be uniform as to each unimproved Lot and as to each improved Lot.

Section 6. Lien for Assessments. All sums assessed to any Lot, together with interest and all costs and expenses of collection, including reasonable attorneys' fees, are secured by a lien on such Lot in favor of the Association. Such lien is subject and inferior to the lien for all sums secured by any first mortgage encumbering such Lot. Except for liens for all sums secured by such first mortgage, all other lienors acquiring liens on any Lot after this Declaration is recorded are deemed to consent that such liens are inferior to the lien established by this section, whether or not such consent is specifically set forth in the instrument creating such lien. The recordation of this Declaration constitutes constructive notice to all subsequent purchasers and creditors, or either, of the existence of the Association's lien and its priority.

Section 7. Remedies of the Association. Any assessment not paid within thirty (30) days after its due date bears interest at the rate of eighteen percent (18%) per annum. The Association may bring an action at law against the Owner personally obligated to pay the same, or foreclose its lien against such Owner's Lot. No Owner may waive or otherwise escape liability for the Association's assessments by nonuse of the services provided by the Association or by abandonment of such Owner's Lot. A suit to recover a money judgment for unpaid assessments may be maintained without foreclosing, waiving, or otherwise impairing the security of the Association's lien, or its priority.

Section 8. Foreclosure. The lien for sums assessed pursuant to this Article may be enforced by judicial foreclosure by the Association in the same manner in which mortgages on real property from time to time may be foreclosed in the State of Florida. In any such foreclosure, the Owner is required to pay all costs and expenses of foreclosure, including reasonable attorneys' fees. All such costs and expenses are secured by the lien foreclosed. The Owner also is required to pay to the Association any

assessments against the Lot that become due during the period of foreclosure, which also are secured by the lien foreclosed and shall be accounted and paid as of the date the Owner's title is divested by foreclosure. The Association has the right and power to bid at the foreclosure or other legal sale to acquire the Lot foreclosed, or to acquire such Lot by deed or other proceeding in lieu of foreclosure, and thereafter to hold, convey, lease, rent, encumber, use and otherwise deal with such Lot as its Owner for purposes of resale only. If any foreclosure sale results in a deficiency, the court having jurisdiction of the foreclosure may enter a personal judgment against the Owner for such deficiency.

Section 9. Homesteads. By acceptance of a deed thereto, the Owner of each Lot is deemed to acknowledge conclusively that the assessments established by this Article are for the improvement and maintenance of any homestead thereon and that the Association's lien has priority over any such homestead.

Section 10. Commencement of Annual General Assessment. The Annual General Assessment commences as to all Lots in Porpoise Point on the first day of the month following the recording of the first transfer of title by Developer of any Lot herein to an Owner other than Developer. The first Annual General Assessment against any Lot shall be prorated according to the number of months then remaining in the calendar year. The Annual General Assessment shall be assessed by the Association against each Lot on the first day of each fiscal year of the Association. The Annual General Assessment shall be payable in such installments as may be determined by the Board.

Section 11. Developer's Obligation for Assessments. Notwithstanding the foregoing requirement of uniformity or any other provision of this Declaration or of the Association's Articles or By-laws to the contrary, the Developer shall not be liable for the Annual General Assessment against any Lot in which the Developer owns any interest and is offered for sale by the Developer provided however, that the Developer shall fund any difference between actual revenues collected from other Lot Owners and the actual operating expenses of the Association. Notwithstanding the foregoing, those Lots from which Developer derives any rental income shall be assessed at the same amount from time to time established for similar

Lots in Porpoise Point prorated as of and commencing with the month following the execution of the rental agreement.

ARTICLE VII

ARCHITECTURAL CONTROL

Section 1. Architectural Control Committee. The Board shall appoint as a standing committee an Architectural Control Committee (the "Committee") composed of three (3) or more persons appointed by the Board or, in the Board's discretion, the Board from time to time may constitute itself the Committee. No member of the Committee shall be entitled to compensation for services performed; but the Board may employ independent professional advisors to the Committee and allow reasonable compensation to such advisors from Association funds. Committee members need not be Owners.

Section 2. Approval Rights. The Committee, its legal representatives, successors and assigns shall have the exclusive right to approve the site plan, architectural plans, specifications and materials for all buildings, structures, grading, landscaping and other improvements hereafter to be constructed on any Lot, including but not limited to buildings, walls, patios, verandas, utility buildings, driveways and swimming pools, regardless of their size or purpose or attachment to an existing residential building. No building, structure, grading, landscaping or other improvement may be erected, placed, performed or remain on any Lot unless and until a set of building plans as defined below and such other information with respect thereto as the Committee may require, is submitted to and approved in writing by the Committee.

Section 3. Procedures. The Committee shall exercise its right of review and approval in the following manner:

(a) An Owner or other party who desires to place or construct a building, structure, landscaping or other improvement on a Lot or do any grading thereon shall submit two (2) complete sets of building plans, as described below, to the Committee.

(b) The building plans must include (i) specifications showing the nature, type, shape, height, size, floor plans and exterior color scheme of the proposed development, (ii) drawings describing the

location and orientation of the proposed development on the Lot, its approximate square footage, and its front, side and rear elevations, (iii) a list of construction materials for the proposed development, and (iv) plans for any grading and landscaping, (v) the proposed parking layout, (vi) plans for handling trash and garbage and plans for mailboxes, and (vii) a construction schedule for the proposed development. The Committee may require the submission of any other information that the Committee, in its sole discretion, deems necessary to the formation of an informed judgment of the proposed project.

(c) The Committee shall have the absolute right to refuse to approve any building, grading or landscaping plans or proposed improvement on any ground or grounds (including purely aesthetic considerations) which the Committee shall, in its sole discretion, deem to be sufficient.

(d) The Committee shall have ten (10) working days after the date on which all plans, specifications and other required information are submitted to approve or disapprove a proposed development, and failure by the Committee to send or personally deliver written notice of approval or disapproval within this time period shall be deemed an approval of the proposed development.

(e) In the event that a development is approved, construction shall start promptly upon the receipt of a written notice of approval and shall be prosecuted to completion with diligence and in strict conformity with the plans and specifications upon which such approval is based.

(f) In the event that a development is disapproved, the written notice of disapproval shall state, with reasonable detail, the reason(s) for disapproval. If, in the sole opinion of the Committee, any defects in the plans and specifications of the proposed project can be satisfactorily cured, the written notice of disapproval shall also contain the Committee's recommendations for remedying the same.

(g) An Owner whose development has been disapproved shall have the right to appeal the decision of the Architectural Control Committee to the Association in the following manner: upon receipt of a notification of disapproval, the aggrieved owner shall furnish

to the Members of the Association a copy of all materials submitted to the Committee as required by this Article. If the Owner is able to secure the approval of Owners of 51% of the Lots in Porpoise Point for the proposed development, the Owner shall submit the evidence of such approval to the Committee, who shall then provide to the Owner the written notice of approval of the development as provided in this paragraph. All approvals secured from the Association Members as provided in this paragraph shall be in writing, executed by the Owner giving his or her approval, whose signature shall be acknowledged before a Notary Public. No meeting of the Association shall be required for consideration of an appeal of a decision by the Architectural Control Committee as set forth in this paragraph.

(h) The Association or the Developer shall be entitled by appropriate action to stop any construction of, or change or alteration in, any building, structure, landscaping or other improvement that is begun without first acquiring approval in accordance with the foregoing provisions, and shall be entitled to require that the premises be restored to its original condition at the expense of the Owner of the Lot and the person undertaking such construction, change or alteration, or either of them.

ARTICLE VIII

GENERAL PROVISIONS

Section 1. Enforcement. The Association, or any Owner, has the right to enforce, by any appropriate proceeding at law or in equity, all restrictions, conditions, covenants, easements, reservations, liens and charges now or hereafter imposed by or pursuant to the provisions of this Declaration. The party enforcing the same additionally has the right to recover against the party violating this Declaration all costs and expenses incurred, including reasonable attorneys' fees, including those for trial and appellate proceedings, if any. If the Association enforces the provisions of this Declaration against any Owner, the costs and expenses of such enforcement, including such reasonable attorneys' fees, may be assessed against such Owner's Lot, as provided in Article VI, Section 3.

Failure by the Association or by any Owner to enforce any covenant or restriction contained herein shall not be deemed a waiver of the right to do so at any time.

Section 2. Amendment. The provisions of this Declaration shall run with and bind the properties, and shall inure to the benefit of and be enforceable by the Association or any Owner, their respective heirs, successors, and assigns, until March 1, 2003, whereupon they automatically shall be extended for successive periods of ten (10) years; provided, however, that in the sole event the foregoing is construed by a Court of competent jurisdiction to render the provisions of this Declaration unenforceable after March 1, 2003, then, in such event only, the provisions of this Declaration shall run with and bind all lands now or hereafter subject to its provisions for a period of ninety-nine (99) years from the date this Declaration is recorded, whereupon it shall cease and expire and be without further legal force and effect unless prior thereto a majority of the Members present in person or by proxy and voting at a meeting duly convened for such purpose elect to reimpose its provisions. In all events, this Declaration may be amended by an instrument executed by the Association and signed by not less than seventy-five percent (75%) of all Owners with the formalities from time to time required of a deed. No amendment shall be effective until recorded.

Section 3. Meeting Requirement. Wherever any provision of this Declaration requires any action to be approved by the membership of the Association, said action shall be taken at a meeting duly convened for such purpose, and written notice of such meeting must be given to all members in accordance with the provisions of the Association's By-Laws setting forth its purpose. At such meeting, the presence of members or proxies entitled to cast at least fifty percent (50%) of the votes of each class of membership constitutes a quorum. If the required quorum is not forthcoming, another meeting may be called subject to the same notice requirement; and the required quorum at any such subsequent meeting will be reduced to those members present at the meeting. No such subsequent meeting shall be held more than sixty (60) days following the preceding meeting.

Section 4. Severability. Invalidation of any particular provision of this Declaration by judgment or court order shall not affect any other provision, all of which shall remain in full force and effect.

Section 5. Joinder. The Association, and Barnett Bank of St. Johns County, First National Bank of Florida, and William D. Mitchell, being all of the Mortgagees of Porpoise Point, join in this Declaration of Covenants, Conditions and Restrictions of Porpoise Point for the purpose of subordinating whatever right, title and interest they may have in Porpoise Point to its provisions.

IN WITNESS WHEREOF, the Developer has set its hand and seal this 16 day of February, 1983.

WITNESSES:

KEITH H. KUHLMAN and RANDALL E. GENTRY, co-partners d/b/a PORPOISE POINT PARTNERSHIP, a Florida General Partnership

BY:

KEITH H. KUHLMAN

John D. Bailey Jr.
Linda S. Durkin
As to Keith H. Kuhlman

BY:

RANDALL E. GENTRY

John D. Bailey Jr.
Linda S. Durkin
As to Randall E. Gentry

BARNETT BANK OF ST. JOHNS COUNTY, a Florida banking corporation

BY:

Title: Executive Vice President

(CORPORATE SEAL)

Raynita M. Elmore
Linda H. Whittington
As to Barnett Bank of St. Johns County

WITNESSES:

Mary E. Borzale

Diane M. Gartin
As to First National Bank of
Florida

FIRST NATIONAL BANK OF FLORIDA,
a national banking corporation

By: James W. Heard

Title: Senior Vice President

(CORPORATE SEAL)

HOMEOWNER'S UTILITIES, INC.,
Florida corporation

L. Franklin Long

Teresa L. Toomer
As to Homeowner's Utilities,
Inc.

By: Robert D.

Title: PRESIDENT

(CORPORATE SEAL)

L. Franklin Long

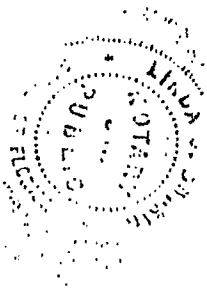
Teresa L. Toomer
As to William D. Mitchell

WILLIAM D. MITCHELL

STATE OF FLORIDA

COUNTY OF St. Johns

The foregoing instrument was acknowledged before me this 16th day of February, 1983, by KEITH H. KULHMAN.



Linda S. Durkin
NOTARY PUBLIC

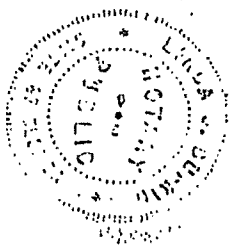
My Commission Expires:

Notary Public, State of Florida at Large.
My Commission Expires January 29, 1987.

STATE OF FLORIDA

COUNTY OF St. Johns

The foregoing instrument was acknowledged before me this 16th day of February, 1983, by RANDALL E. GENTRY.



Linda S. Durkin
NOTARY PUBLIC

My Commission Expires:

Notary Public, State of Florida at Large.
My Commission Expires January 29, 1987.

STATE OF FLORIDA

COUNTY OF St. Johns

The foregoing instrument was acknowledged before me this 23rd day of February, 1983, by Wm. F. Young, as Executive Vice Pres. of BARNETT BANK OF ST. JOHNS COUNTY, a Florida banking corporation, on behalf of the corporation.

Linda S. Durkin
NOTARY PUBLIC

My Commission Expires:

NOTARY PUBLIC, STATE OF FLORIDA
My Commission Expires June 30, 1986

STATE OF FLORIDA

COUNTY OF Hillsborough

The foregoing instrument was acknowledged before me this 11th day of February, 1983, by Lawrence M. Heard, as Senior Vice President of FIRST NATIONAL BANK OF FLORIDA, a national banking corporation, on behalf of the corporation.

Mary E. Gonzales
NOTARY PUBLIC

My Commission Expires:

Notary Public, State of Florida at Large
My Commission Expires July 29, 1984

STATE OF FLORIDA

COUNTY OF St. Johns

The foregoing instrument was acknowledged before me this 25th day of February, 1983, by ROBERT DUKES, as PRESIDENT of HOMEOWNER'S UTILITIES, INC., a Florida corporation, on behalf of the corporation.

Teresa L. Toomey
NOTARY PUBLIC

My Commission Expires:

NOTARY PUBLIC STATE OF FLORIDA
MY COMMISSION EXPIRES JAN 17 1986
RONDED TRINITY GENERAL INS. UNDERWRITERS

STATE OF FLORIDA

COUNTY OF ST. JOHNS

The foregoing instrument was acknowledged before me this 17 day of February, 1983, by WILLIAM D. MITCHELL

Barbara C. Lingg
Notary Public

My Commission Expires:

Notary Public, State of Florida at Large
My Commission expires July 20, 1984

EXHIBIT "A"

All of Porpoise Point, according to the plat
thereof as recorded in Map Book 15, Pages 1 through 9,
of the Public Records of St. Johns County, Florida.

FILED AND RECORDED IN
PUBLIC RECORDS OF
ST. JOHNS COUNTY, FLA.

1983 FEB 28 AM 10:02

Paul 'Paul' Munkel
CLERK OF CIRCUIT COURT

21

**RESTATED
DECLARATION OF COVENANTS,
CONDITIONS, AND RESTRICTIONS OF
PORPOISE POINT**

THIS RESTATED DECLARATION OF COVENANTS, CONDITIONS, AND
RESTRICTIONS OF PORPOISE POINT MADE THIS 10 DAY OF JANUARY,
2005 BY

WITNESSETH:

WHEREAS, Developer was the Owner of that certain real property located in St. Johns County, Florida, known as Porpoise Point and which is more particularly described in Exhibit "A" attached to the original Declaration of Covenants (hereinafter referred to as Porpoise Point), recorded at Map Book 15, Pages 1 through 9 of the Public Records of St. Johns County, Florida, and

WHEREAS the Developer recorded the "Declaration of Covenants, Conditions and Restrictions" (hereafter the "Declaration") recorded at OR 573, Page 473 of the Public Records of St. Johns County, Florida for the purpose of providing a common plan or scheme of development for Porpoise Point and for the purpose of aiding in the establishment and maintenance of an exclusive residential area of the highest quality for the maximum benefit and enjoyment of its residents, and

WHEREAS a majority of the owners are desirous of continuing the covenants as restated in its entirety herein and to preserve the rights created and retained hereunder according to Chapter 712, Florida Statutes; and

WHEREAS the current Owners of Lots in Porpoise Point desire to amend and restate the Covenants as permitted under Article VIII of the original covenants,

NOW THEREFORE, each and every Lot located within the Porpoise Point Subdivision lying and being situated in St. Johns County, Florida, recorded in the Public Records of St. Johns County in Map Book 15, Pages 1 through 9 of the Public Records of St. Johns County, Florida shall be held, sold and conveyed subject to the following easements, restrictions, covenants and conditions, all of which are for the purpose of protecting the value and desirability of, and which shall be covenants to run with said Lots and be binding on all parties having right, title or interest in the Lots described above or any part thereof, their heirs, successors, grantees, executors, administrators, devisees or assigns and shall inure to the benefit of each owner thereof.

Prepared by Robert S. Yerkes
Foerster, Isaac & Yerkes, P.A.
2468 Atlantic Boulevard
Jacksonville, Florida 32207

When recorded return to Robert S. Yerkes
Foerster, Isaac & Yerkes, P.A.
2468 Atlantic Boulevard
Jacksonville, Florida 32207

ARTICLE I**DECLARATION OF COVENANTS,
CONDITIONS AND RESTRICTIONS
OF PORPOISE POINT**

The Developer intends that all of the lands located in Porpoise Point, as described in Exhibit "A", be held, sold and conveyed subject to the conditions, covenants, restrictions and other provisions contained in this Declaration, which it acknowledges are for the purposes of protecting the value and desirability of, and which shall run with, Porpoise Point and be binding upon all parties having any right, title or interest therein, or any portion thereof, their respective heirs, successors and assigns and which shall inure to the benefit of the Association and each Owner, as such terms are defined in this Declaration.

ARTICLE II**DEFINITIONS AND CONSTRUCTION**

Section 1. "Association" means Homeowner's Utilities, Inc. a non-profit Florida corporation formed or to be formed, its successors and assigns.

Section 2. "Board" or "Board of Directors" means the Association's Board of Directors.

Section 3. "Developer" means Keith H. Kuhlman and Randall E. Gentry Co-partners d/b/a Porpoise Point Partnership, a Florida General Partnership, and such of their successors and assigns as may be designated by them as a "Developer" by an instrument recorded on the Public Records of st. Johns County, Florida.

Section 4. "Porpoise Point" shall mean all of the land located in the Subdivision entitled Porpoise Point recorded in Map Book 15, Pages 1-9, of the Public Records of St. Johns County, Florida. The term "Properties" when used hereafter means Porpoise Point as defined in this section.

Section 5. "Lot" shall mean each platted lot located in Porpoise Point.

Section 6. "Owner" means the record owner, whether one or more persons, of the fee simple title to any Lot, including contract sellers, but excluding any other person holding such fee simple title merely as security for the performance of an obligation.

Section 7. "Person" means any natural person or artificial legal entity, unless the context expressly requires otherwise.

Section 8. "Member" shall mean members of the Association.

ARTICLE III

MAINTENANCE AND USE RESTRICTIONS

Section 1. Only one private dwelling including its accessory structures, shall be erected, constructed, placed or maintained on any one of the Lots in Porpoise Point, except that more than one (1) Lot may be used for one (1) private dwelling.

Section 2. No building shall be located on any Lot nearer than twenty-five (25) feet to the front Lot line. Each main building shall have two (2) side yards, each of which shall have a minimum width of eight (8) feet. As to corner Lots, the owners shall determine at the time of construction of the dwelling unit which yard is to be designated as the side yard; the minimum side yard adjacent to street right of way shall be twenty-five (25) feet. No dwelling shall be located nearer than ten (10) feet to the rear Lot line.

Section 3. Any detached garage, other outbuilding or structure, including but not limited to a swimming pool, shall be set back from the rear Lot line at least ten (10) feet.

Section 4. No dwelling erected on a Lot shall exceed thirty-five (35) feet above grade in height, private garages shall not contain space for more than three (3) cars. The first (1st) living floor of the main structure of any single family dwelling in Porpoise Point shall be not less than fourteen hundred (1,400) square feet, exclusive of porches, garages and pool areas, except that the 1st living floor area may be reduced to a minimum of eight hundred (800) square feet for two-story dwellings; provided, however, the total floor area of two-story dwellings shall be not less than fourteen hundred (1,400) square feet, exclusive of porches, garages and pool areas.

Section 5. Other than a single family dwelling as described in Section 4 above, no building except a garage or accessory structures may be erected on any Lot and no structure of a temporary nature or character shall be used as a residence. If a detached garage or accessory structure is built, either simultaneously with or subsequent to the erection of the dwelling house, the same shall be of the same kind of materials as the construction of the dwelling and shall be substantial and shall conform architecturally with the dwelling house.

Section 6. No commercial trade or activity shall be carried on upon any Lot, nor shall anything be done thereon which may be or become an annoyance or nuisance to the neighborhood.

Section 7. No building or structure shall be moved onto any Lot or parcel in the area covered by this Declaration, it being the intent of this Declaration that any and all buildings or structures in Porpoise Point shall be constructed thereon.

Section 8. No animals, livestock or poultry of any kind shall be raised, bred or kept on any Lot, except that dogs, cats and other household pets may be kept provided that they are not kept, bred or maintained for any commercial purpose. Pets shall be kept in fenced areas or on leashes when out of doors.

Section 9. No sign of any kind shall be displayed to the public view on any Lot except that there may be one (1) sign of not more than five (5) square feet, advertising a Lot for sale or rent, or a sign used by a builder to advertise the Lot during the construction and sales period. The sign shall be removed as soon as the Lot is sold.

Section 10. All of the rights of the Developer, in connection with the enforcement of any portion of this Declaration shall extend to its successors and assigns.

Section 11. Street mailboxes shall be of a type consistent with the character of Porpoise Point and shall be placed and maintained to complement the houses in the neighborhood. At such time as door postal service is available, Owners shall be required to have mailboxes attached to the main dwelling structure, and street mailboxes shall be removed within ten (10) days of commencement of such door postal service.

Section 12. Stationary outside clotheslines and clothes hanging devices such as lines, poles or frames are not permitted in Porpoise Point.

Section 13. Fences, boundary walls and hedges shall not exceed five (5) feet in height if located from the front property line to the back building line of the main structure, and shall not exceed six (6) feet in height if located from the back building line to the rear property line.

Section 14. No commercial vehicles of any type shall be permitted to remain overnight on the property of a private dwelling within Porpoise Point unless garaged, other than as may be

used by the Developer in conjunction with development and building within Porpoise Point.

Section 15. No unlicensed or uninsured motor vehicles of any kind shall be permitted to remain overnight on the property of a private dwelling, unless garaged. No house trailer shall be permitted to stay on any Lot or public right of way.

Section 16. No lumber, brick, stone, cinder block, concrete or other building materials, scaffolding, mechanical devices or any other thing used for building purposes shall be stored on any Lot except for the purpose of construction on such Lot and shall not be stored on such Lot for longer than the length of time reasonably necessary for the construction to completion of the improvement in which same is to be used.

Section 17. No window air conditioning units shall be installed unless screened from view of neighboring Lots and streets.

Section 18. All garages shall be equipped with automatic devices for the opening and closing of garage doors.

Section 19. No exterior television, radio, microwave, or other antenna shall be installed unless fully enclosed or shielded from public view and the view of all neighboring Lots, streets and common areas of Porpoise Point.

Section 20. No above ground fuel tanks or storage tanks, nor above ground swimming pools of any kind, shall be installed, placed or maintained on any Lot.

Section 21. All residential driveway culverts shall be constructed of twelve inch by eighteen inch (12" x 18") reinforced concrete with reinforced concrete headwalls.

Section 22. Water obtained from Homeowner's Utilities, Inc. shall not be used for commercial purposes, nor for heating or cooling. Such water shall not be sold to anyone, but is

for the private use of owners of Lots in Porpoise Point. All new homes built in Porpoise Point must use a well for irrigation.

ARTICLE IV

PROPERTY OWNERS ASSOCIATION MEMBERSHIP AND VOTING RIGHTS

Section 1. For the purpose of enhancing and protecting the value, attractiveness and desirability of the Lots in Porpoise Point to enable and aid the goal of secure and safe living, and to provide potable water and storm drainage management to Porpoise Point, there exists a Florida not for profit corporation called "HOMEOWNER'S UTILITIES, INC."

Section 2. Membership. Every Owner of a Lot that is subject to assessment is a member of the Association. If title to a Lot is held by more than one person, each such person is a Member. An Owner of more than one Lot is entitled to one membership for each Lot owned. Each membership is appurtenant to the Lot upon which it is based and is transferred automatically by conveyance of title to that Lot. No person other than an Owner may be a Member of the Association, and a membership in the Association may not be transferred except by the transfer of title to a Lot; provided, however, the foregoing shall not be construed to prohibit the assignment of membership and voting rights by an Owner who is a contract seller to his vendee in possession.

Section 3. Voting. Each Owner of a Lot is entitled to one vote for each Lot owned. If more than one person owns an interest in any Lot, all such persons are Members; but there may be only one vote cast for each such Lot. Such vote may be exercised as the Owners determine

among themselves; but no split vote is permitted.

Section 4. Amplification. The provisions of this Declaration are amplified by the Association's Articles of Incorporation and Bylaws; but no such amplification shall alter or amend substantially any of the rights or obligations of the Owner set forth in this Declaration. Developer intends that the provisions of this Declaration on the one hand, and the Articles of Incorporation and Bylaws on the other, be interpreted, construed, and applied to avoid inconsistencies or conflicting results. If such conflict necessarily results, however, Developer intends that the provisions of this Declaration control anything in the Articles of Incorporation or By laws to the contrary.

ARTICLE V

RIGHTS AND OBLIGATIONS OF THE ASSOCIATION

Section 1. Subject to the rights of the Owners set forth in this Declaration, the Association has the following rights and responsibilities:

- (a) To contract with various entitles or persons to provide potable water and storm drainage facilities to Porpoise Point and/or any other utility facilities that the Association might determine are reasonably necessary or appropriate for Porpoise Point;
- (b) To assess and collect funds from its Members for the necessary and reasonable costs of providing the services and facilities specified in Section 1(a) above.
- (c) To carry out the duties of the Association as specified herein and to enforce the terms and conditions as specified in this Declaration.

In fulfillment of its duties, the Association may obtain and pay for the services of any person to manage its affairs to the extent it deems advisable, as well as such other personnel as the Association determines are proper or desirable for the proper operation of Porpoise Point, whether such personnel are furnished or employed directly by the Association or by any person with whom it contracts. The Board is authorized to expend dollars as needed for the proper operation of the Water Plant. All other expenditures in excess of or estimated to be a cumulative expenditure for the current fiscal year in excess of \$7,500 annually or 14% of the projected revenues (annual assessments), whichever is greater, for any one single expense category, shall be voted on at the Annual Homeowner's meeting or at a special meeting of the membership of the Association. A majority of members at the meeting will be required to approve such expenditures.

(d) A reserve account shall be set aside for the use, repair, maintenance and replacement of the water plant that is owned and maintained by the Homeowners Utilities, Inc. This reserve fund and any interest accruing thereon shall remain in the reserve account and shall be used only for the use, repair, maintenance or replacement of the water plant unless the use for other purposes is approved in advance by a majority vote at a duly called meeting of the Association.

Section 2. The Association may acquire, hold and dispose of real property and tangible and intangible personal property subject to the restrictions as from time to time may be contained in the Association's Bylaws.

Section 3. The Association may exercise any other right, power or privilege given to it expressly by this Declaration, its Articles or Bylaws and every other right, power or privilege

reasonably to be implied from the existence of any right, power or privilege so granted or reasonably necessary to effectuate the exercise of any right, power or privilege so granted.

ARTICLE VI

COVENANT FOR ASSESSMENTS

Section 1. Assessments Established. For each Lot owned within Porpoise Point, the parties hereto covenant, and each Owner of any Lot by acceptance of a deed thereto whether or not so expressed in such deed is deemed to covenant and agree to pay to the Association an Annual General Assessment as defined in Section 2 of this Article, Special Assessments for Capital Improvements as defined in Section 3 of this Article and Specific Assessments as defined in Section 4 of this Article. All of the foregoing, together with interest and all costs and expenses of collection, including reasonable attorneys' fees, are a continuing charge on the land secured by a continuing lien upon the Lot against which each assessment is made. Each such assessment, together with interest and all costs and expenses of collection including reasonable attorneys' fees, also is the personal obligation of the person who was the Owner of such Lot when such assessment fell due. The obligation for delinquent assessments shall not pass to any Owner's successors in title unless assumed expressly in writing; however, the above referred to lien shall continue to be enforceable against the Lot. The Association shall not be liable for any assessments on Lots owned by it.

Section 2. Annual General Assessment. The Annual General Assessment levied by the Association shall be used to provide potable water and drainage facilities to the Owners within Porpoise Point and for the performance of the Association's other rights and responsibilities

under this Declaration. Until January 1, 1984, the Annual General Assessment will not exceed \$25 per year for unimproved Lots, or \$75 per year for Lots with improvements. Any Lot for which a certificate of occupancy issued by the St. Johns County Building Department as of the annual assessment date shall be considered an improved Lot for purposes of this Assessment. The maximum annual assessment may be increased only upon the approval by two-thirds (2/3) of the Members who are present in person or by proxy and voting at a meeting of the Association duly convened for such purpose.

Section 3. Special Assessment for Capital Improvements. In addition to the Annual General Assessment, the Association may levy, in any assessment year, a special assessment applicable to that year only, for the purpose of defraying, in whole or in part, the cost of any construction, reconstruction, renewal, repair, replacement, or purchase of any property by the Association for the purposes described in Article V, Section 1, including related fixtures and personal property. Any such assessment must be approved by two-thirds (2/3) of the Members who are present in person or by proxy and voting at a meeting duly convened for such purpose.

Section 4. Specific Assessments. Any and all accrued, liquidated indebtedness of any Owner to the Association arising under any provision of this Declaration, including any indemnity contained herein, or by contract express or implied, or because of any act or omission of any Owner or of any Owner's family or household members, also may be assessed by the Association against such Owner's Lot after such Owner fails to pay the same when due and such default continues for thirty (30) days after written notice.

Section 5. Uniformity of Assessments. The Annual General Assessment and Special Assessments for Capital Improvements shall be uniform as to each unimproved Lot and as to

each improved Lot. The Annual General Assessment may be uniform; however, at any point that a homeowner's water usage is considered to be excessive and above the norm, a Member of the Water Committee will advise the property owner of the excessive use. In the event of no improvement after such notification, the Board of Directors has the authority to assess fines, charge based on usage, or to take other remedial action necessary to bring usage in line with requirements including requiring the property owner to install or share a well for irrigation. The Board also has the authority to provide incentives to homeowners who take action to reduce water consumption and thus take wear and tear from the water plant.

Section 6. Lien for Assessments. All sums assessed to any Lot, together with interest and all costs and expenses of collection, including reasonable attorneys' fees, are secured by a lien on such Lot in favor of the Association. Such lien is subject and inferior to the lien for all sums secured by any first mortgage encumbering such Lot. Except for liens for all sums secured by such first mortgage, all other lienors acquiring liens on any Lot after this Declaration is recorded are deemed to consent that such liens are inferior to the lien established by this section, whether or not such consent is specifically set forth in the instrument creating such lien. The recordation of this Declaration constitutes constructive notice to all subsequent purchasers and creditors, or either, or the existence of the Association's lien and its priority.

Section 7. Remedies of the Association. Any assessment not paid within thirty (30) days after its due date bears interest at the rate of eighteen percent (18%) per annum. The Association may bring an action at law against the Owner personally obligated to pay the same, or foreclose its lien against such Owner's Lot. No Owner may waive or otherwise escape liability for the Association's assessments by nonuse of the services provided by the Association or by

abandonment of such Owner's Lot. A suit to recover a money judgment for unpaid assessments may be maintained without foreclosing, waiving, or otherwise impairing the security of the Association's lien, or its priority.

Section 8. Foreclosure. The lien for sums assessed pursuant to this Article may be enforced by judicial foreclosure by the Association in the same manner in which mortgages on real property from time to time may be foreclosed in the State of Florida. In any such foreclosure, the Owner is required to pay all costs and expenses of foreclosure, including reasonable attorneys' fees. All such costs and expenses are secured by the lien foreclosed. The Owner also is required to pay to the Association any assessments against the Lot that become due during the period of foreclosure, which also are secured by the lien foreclosed and shall be accounted and paid as of the date the Owner's title is divested by foreclosure. The Association has the right and power to bid at the foreclosure or other legal sale to acquire the Lot foreclosed, or to acquire such lot by deed or other proceeding in lieu of foreclosure, and thereafter to hold, convey, lease, rent, encumber, use and otherwise deal with such Lot as its Owner for purposes of resale only. If any foreclosure sale results in a deficiency, the court having jurisdiction of the foreclosure may enter a personal judgment against the Owner for such deficiency.

Section 9. Homesteads. By acceptance of a deed thereto, the Owner of each Lot is deemed to acknowledge conclusively that the assessments established by this Article are for the Improvement and maintenance of any homestead thereon and that the Association's lien has priority over any such homestead.

Section 10. Commencement of Annual General Assessment. The Annual General Assessment commences as to all Lots in Porpoise Point on the first day of the month following

the recording of the first transfer of title by Developer of any Lot herein to an Owner other than Developer. The first Annual General Assessment against any Lot shall be prorated according to the number of months then remaining in the calendar year. The Annual General Assessment shall be assessed by the Association against each Lot on the first day of each fiscal year of the Association. The Annual General Assessment shall be payable in such installments as may be determined by the Board.

Section 11. Developer's Obligation for Assessments. Notwithstanding the foregoing requirement of uniformity or any other provision of this Declaration or of the Association's Articles or Bylaws to the contrary, the Developer shall not be liable for the Annual General Assessment against any Lot in which the Developer owns any interest and is offered for sale by the Developer provided however, that the Developer shall fund any difference between actual revenues collected from other Lot Owners and the actual operating expenses of the Association. Notwithstanding the foregoing, those Lots from which Developer derives any rental income shall be assessed at the same amount from time to time established for similar Lots in Porpoise Point prorated as of and commencing with the month following the execution of the rental agreement.

ARTICLE VII

ARCHITECTURAL CONTROL

Section 1. Architectural Control Committee. The Board shall appoint as a standing committee an Architectural Control Committee (the "Committee") composed of three (3) or more persons appointed by the Board or, in the Board's discretion, the Board from time to time may constitute itself the Committee. No member of the Committee shall be entitled to

compensation for services preformed; but the Board may employ independent professional advisors to the Committee and allow reasonable compensation to such advisors from Association funds. Committee members need not be Owners.

Section 2. Approval Rights. The Committee, its legal representatives, successors and assigns shall have the exclusive right to approve the site plan, architectural plans, specification and materials for all buildings, structures, grading, landscaping and other improvements hereafter to be constructed on any Lot, including but not limited to buildings, walls, patios, verandas, utility buildings, driveways and swimming pools, regardless of their size or purpose or attachment to an existing residential building. No building structure, grading, landscaping or other improvement may be erected, placed, performed or remain on any Lot unless and until a set of building plans as defined below and such other information with respect thereto as the Committee may require, is submitted to and approved in writing by the Committee.

Section 3. Procedures. The committee shall exercise its right of review and approval in the following manner:

(a) An Owner or other party who desires to place or construct a building, structure, landscaping or other improvement on a Lot or do any grading thereon shall submit two (2) complete sets of building plans, as describe below, to the Committee.

(b) The building plans must include (i) specification showing the nature, type, shape, height, size, floor plans and exterior color scheme of the proposed development, (ii) drawings describing the location and orientation of the proposed development on the Lot, its approximate square footage, and its front, side and rear elevations, (iii) a list of construction materials for the proposed development, (iv) plans for any grading and landscaping, (v) the

proposed parking layout, (vi) plans for handling trash and garbage and plans for mailboxes, and (vii) a construction schedule for the proposed development. The Committee may require the submission of any other information that the Committee, in its sole discretion, deems necessary to the formation of an informed judgment of the proposed project.

(c) The Committee shall have the absolute right to refuse to approve any building, grading or landscaping plans or proposed improvement on any ground or grounds (including purely aesthetic considerations) which the Committee shall, in its sole discretion, deem to be sufficient.

(d) The Committee shall have ten (10) working days after the date on which all plans, specifications and other required information are submitted to approve or disapprove a proposed development, and failure by the Committee to send or personally deliver written notice of approval or disapproval within this time period shall be deemed an approval of the proposed development.

(e) In the event that a development is approved, construction shall start promptly upon the receipt of a written notice of approval and shall be prosecuted to completion with diligence and in strict conformity with the plans and specification upon which such approval is based.

(f) In the event that a development is disapproved, the written notice of disapproval shall state, with reasonable detail, the reason(s) for disapproval. If, in the sole opinion of the Committee, any defects in the plans and specifications of the proposed project can be satisfactorily cured, the written notice of disapproval shall also contain the Committee's recommendations for remedying the same.

(g) An Owner whose development has been disapproved shall have the right to appeal the decision of the Architectural Control Committee to the Association in the following manner: upon receipt of a notification of disapproval, the aggrieved Owner shall furnish to the Members of the Association a copy of all materials submitted to the Committee as required by this Article. If the Owner is able to secure the approval of Owners of fifty-one percent (51%) of the Lots in Porpoise Point for the proposed development, the Owner shall submit the evidence of such approval to the Committee, who shall then provide to the Owner the written notice of approval of the development as provided in this paragraph. All approvals secured from the Association Members as provided in this paragraph shall be in writing, executed by the Owner giving his or her approval, whose signature shall be acknowledged before a Notary Public. No meeting of the Association shall be required for consideration of an appeal of a decision by the Architectural Control Committee as set forth in this paragraph.

(h) The Association or the Developer shall be entitled by appropriate action to stop any construction of, or change or alteration in, any building, structure, landscaping or other improvement that is begun without first acquiring approval in accordance with the foregoing provisions, and shall be entitled to require that the premises be restored to its original condition at the expense of the Owner of the Lot and the person undertaking such construction, change or alteration, or either of them.

ARTICLE VIII**GENERAL PROVISIONS**

Section 1. Enforcement. The Association, or any Owner, has the right to enforce, by any appropriate proceeding at law or in equity, all restrictions, conditions, covenants, easements, reservations, liens and charges now or hereafter imposed by or pursuant to the provisions of this Declaration. The party enforcing the same additionally has the right to recover against the party violating this Declaration all costs and expenses incurred, including reasonable attorneys' fees, including those for trial and appellate proceedings, if any. If the Association enforces the provisions of this Declaration against any Owner, the cost and expenses of such enforcement, including such reasonable attorneys' fees, may be assessed against such Owner's Lot, as provided in Article VI, Section 3. Failure by the Association or by any Owner to enforce any covenant or restriction contained herein shall not be deemed a waiver of the right to do so at any time.

Section 2. Amendment. The provisions of this Declaration shall run with and bind the properties, and shall inure to the benefit of and be enforceable by the Association or any Owner, their respective heirs, successors, and assigns, until March 1, 2003, whereupon they automatically shall be extended for successive periods of ten (10) years; provided, however, that in the sole event the foregoing is construed by a court of competent jurisdiction to render the provisions of the Declaration unenforceable after March 1, 2003, then, in such event only, the provisions of the Declaration shall run with and bind all lands now or hereafter subject to its provisions for a period of ninety-nine (99) years from the date this Declaration is recorded, whereupon it shall cease and expire and be without further legal force and effect unless prior

thereto a majority of the Members present in person or by proxy and voting at a meeting duly convened for such purpose elect to reimpose its provisions. In all events, the Declaration may be amended by an instrument executed by the Association and signed by not less than seventy-five percent (75%) of all Owners with the formalities from time to time required of a deed. No amendment shall be effective until recorded.

Section 3. Meeting Requirement. Wherever any provision of this Declaration requires any action to be approved by the membership of the Association, said action shall be taken at a meeting duly convened for such purpose, and written notice of such meeting must be given to all members in accordance with the provisions of the Association's Bylaws setting forth its purpose. At such meeting, the presence of Members or proxies entitled to cast at least fifty percent (50%) of the votes of each class of membership constitutes a quorum. If the required quorum is not forthcoming, another meeting may be called subject to the same notice requirement; and the required quorum at any such subsequent meeting will be reduced to those members present at the meeting. No such subsequent meeting shall be held more than sixty (60) days following the preceding meeting.

Section 4. Severability. Invalidation of any particular provision of this Declaration by judgment or court order shall not affect any other provision, all of which remain in full force and effect.

IN WITNESS WHEREOF, Homeowner's Utilities, Inc., has set its hand and seal this

10th day of JANUARY, 2005

WITNESS:

Aly Sue

John Hill
As to

John Hill
Sandra Sue Simmons
As to

HOMEOWNER'S UTILITIES, INC.,
A Florida Corporation

By: *Victoria Smith*
Victoria Smith, President

By: *Robert S. Yerkes*
Robert S. Yerkes, Secretary

STATE OF FLORIDA

COUNTY OF ST. JOHNS

The forgoing instrument was acknowledged before me this 10th day of January, 2005, by Victoria Smith and Robert S. Yerkes, who each provided valid drivers licenses for identification purposes and who each executed the foregoing instrument and acknowledged to and before me that they each executed same for the purposes therein expressed.

Witness my hand and official seal this 10th day of January, 2005.

Sandra Sue Simmons
NOTARY PUBLIC

My Commission Expires: _____

20



Sandra Sue Simmons
MY COMMISSION # DD150306 EXPIRES
November 3, 2006
BONDED THRU TROY FARM INSURANCE, INC.

EXHIBIT "A"

All of Porpoise Point, according to the plat thereof as recorded in Map Book 15, Pages 1 through 9, of the Public Records of St. Johns County, Florida.